A Report to the 79th Texas Legislature

Council on Sex Offender Treatment

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History

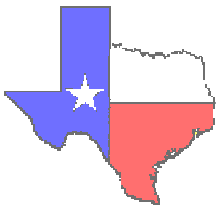
In 1983, the Council on Sex Offender Treatment was created by the Texas Legislature due to the identification of a rising rate of sexual crimes and extremely high recidivism rates for untreated sexual offenders. Over the past two decades, the Council's core function as a regulatory agency has expanded due to the increased public awareness and concern for community safety. Today, the Council has four primary functions: 1) public safety: by administering the civil commitment program of sexually violent predators and preventing sexual assault 2) public and behavioral health: by treating sex offenders, 3) regulatory: by maintaining a registry of sex offender treatment providers and establishing the rules and regulations regarding the treatment of sex offenders, and 4) educational: by the dissemination of information to the public regarding the management of sex offenders. This legal mandate is an innovative domain of the law. These functions may appear to be separate and distinct, however in reality, these functions work together and if they were separated it would be deleterious to public safety. The Council's functions are synergistic with maintaining the highest level of public safety and preventing sexual assault through effective treatment and interventions in the management of sex offenders. The goal of sex offender treatment is **NO MORE VICTIMS.**

Mission of the Council

The mission of the Council is to enhance public safety by developing and implementing standards of practice and by providing education concerning the assessment, treatment, and management of sex offenders. The Council is dedicated to ending the proliferation of sexual violence in Texas.

Statutory Responsibilities of the Council

- Title 3, Occupations Code, Chapter 110, to develop strategies for assessing, managing, and treating sex offenders
- Title 11, Health & Safety Code, Chapter 841, to administer the Civil Commitment Outpatient Sexually Violent Predator Treatment Program (OSVPTP)
- To collect and disseminate information regarding the management of sex offenders and the prevention of sexual assault
- To provide resource information to Legislators regarding sex offenders, treatment, and victim advocacy agencies
- To design and conduct educational training programs
- To establish and maintain a registry of sex offender treatment providers
- To develop and implement by rule registration requirements and procedures for treatment providers
- To advise and assist agencies in coordinating treatment services
- To distribute money for the purpose of development, operation, or evaluation of sex offender treatment programs
- To set forth standards of practice for treatment providers



Council Members

The Council on Sex Offender Treatment consists of seven members appointed by the Governor with the advice and consent of the Senate. Four (4) members are professional clinical expert members and three (3) members represent the Public. Members serve staggered six-year terms. The terms of two members expire on February 1 of each odd-numbered year. Board Officers are elected in odd-number years. The Council is an independent board administratively attached to the Texas Department of State Health Services.

Board Members	Appointed	Term Expires
Walter Meyer III, M.D. Chairperson, RSOTP	**January 1990**	**February 2007**
Liles Arnold, LPC, RSOTP	**July 1998**	**February 2009**
Kristy Carr, Public Member	**July 1998**	**February 2005**
Maria Molett, MA, LPC, LMFT, RSOTP	**October 1998**	**February 2009**
Richard Mack, M.Div., LMFT, RSOTP	**March 1999**	**February 2005**
Judge Patricia Rae Lykos, Public Member	**July 2001**	**February 2007**
Linda Bell Robinson, Public Member	**November 2003**	**February 2009**

Council Staff

Allison Taylor serves as the Executive Director for the Council along with two program staff positions. Lisa Worry serves as the Program Specialist for the Civil Commitment Outpatient Sexually Violent Predator Treatment Program (OSVPTP). Lupe Ruedas serves as the Administrative Technician for the Council and OSVPTP.

Interagency Advisory Committee

The Interagency Advisory Committee advises the Council on administering the Council's duties under the Occupations Code, Chapter 110. The following are members: Ana Aguirre-Texas Juvenile Probation Commission, Glen Kercher, Ph.D.-Sam Houston State University, Colleen Benefield-Office of the Governor-Criminal Justice Division, Pam Rodgers, Office of the Attorney General-Sexual Assault Prevention and Crisis Services, Michael Maples-Texas Department of Mental Health and Mental Retardation, Judy Johnson, Ph.D., LPC, LMFT, TDCJ-Institutional Division Sex Offender Treatment Program, Pat Logterman, LMSW-ACP-Texas Youth Commission Rehabilitation Services, and Vacant-Texas Council of Community MHMR Centers.

Facts

Sex offenders on community supervision represent only a small portion of the actual sex offenders living in our communities. Research has shown the majority of individuals who abuse sexually will not end up in the criminal justice system.

The media's portrayal of sex offenders has inaccurately reported to the public that all sex offenders are sexually violent predators. Commentators, the media, and even academia use the terms "sex offender" and "sexual predator" in a virtually interchangeable manner (Quinn, 2004). Scientific researched based evidence has proven that this is totally inaccurate. The media's use of such inclusive labels of all sex offenders as "dangerous psychopaths" disregards the diversity of motive, risk, and commitment among sex offenders.

Sex offenders are an extremely heterogeneous group and do not fit into a standard profile but fall into numerous categories: voyeurs, exhibitionists, statutory offenders, incest offenders, pedophiles, rapists, sexual sadists, sexual murderers, and Sexually Violent Predator (SVPs). Incarceration in a penal institution does not deter repeat sexually violent predators or the proliferation of sexual violence. Persons who abuse sexually are male and female and come from all socioeconomic and racial groups. Most sex offending begins during adolescence. It is important to remember that the diagnosis itself of pedophilia does not determine a sex offender's dangerousness. It is the sex offender's behavior that determines the level of dangerousness. Typology categories should be used with extreme caution because many sex offenders crossover to different victims, can fall into multiple categories, and have multiple paraphilias. Crossover sexual offenses are defined as those in which victims are from a multiple age, gender, relationship categories, and paraphilic behaviors (Heil, 2003). The following are some examples of paraphilias:

- ➔ Rape-forced sexual contact
- ➔ Child molesting-having sexual contact with a person under 18
- ➔ Bestiality-sexual contact with animals
- ➔ Frottage-touching or rubbing a person for sexual gratification without the person's consent
- ➔ Necrophilia-sexual contact with a deceased person
- ➔ Voyeurism-watching someone for the purpose of sexual gratification
- ➔ Troilism-use of dolls or mannequins during sexual acts
- ➔ Exposing-displaying of one's genitals for the purpose of sexual gratification
- ➔ Bondage-tying up a person while engaged in sexually deviant behavior
- ➔ Obscene calls-use of the telephone or other means to make sexual comments without a persons consent
- ➔ Deviant masturbation-masturbating while thinking deviant thoughts

Sex offender behaviors are extremely resistant to change, so sanctions to both control and punish deviant behaviors are necessary in protecting public safety. In order to manage their behavior, sex offenders must have external controls (i.e. supervision, support system, law enforcement, registration, child safety zones, electronic or global positioning satellite monitoring, and community notification), and must develop internal controls (i.e. identifying triggers and deviant thoughts that precede their offending so it does not lead to the act).

Without external restraints many offenders will not follow through with treatment. Internal motivation improves prognosis, but it does not guarantee success (CSOT Standards).

Difference between Sex Offender Treatment and Traditional Psychotherapy

The most prominent difference is that the primary client in sex offender treatment is **the community** and the goal of treatment is **NO MORE VICTIMS**. With sex offender treatment, community safety takes precedence over any conflicting consideration.

Sex offender treatment is different than traditional psychotherapy in that treatment is mandated, confrontational, structured, victim centered, and the treatment provider imposes values and limits. Providers cannot remain neutral because of the risk of colluding with, adding to, and/or contributing to the offender's denial. In sex offender treatment, confidentiality is not maintained due to the enormous public safety issues. Because secrecy is the lifeblood of sexual offending, treatment providers cannot guarantee confidentiality. Treatment providers must not solely rely on self-report because sex offenders see trust as abuseable. Instead, treatment providers rely on polygraphs to verify information given by the offender. Sex offender treatment is offense specific and focused on the deviant behavior.

By contrast, in traditional psychotherapy the client voluntarily seeks therapy and is motivated. Goal setting is a joint responsibility with the client having the final say. Therapists remain neutral and do not impose their values and limits. Confidentiality and trust are maintained and are essential to the therapeutic process.

Sex offender treatment requires the offender to face the consequences of their behavior and on their victims and society. In treatment sex offenders are expected to accept responsibility for their sex offending behaviors.

Additionally, sex offender treatment mandates an approach unfamiliar to most mental health professionals because of the substantial control a therapist must exercise over their client due to the concern for community protection. Due to this specialization, a **Registered or Affiliate Sex Offender Treatment Provider** is qualified through training and experience to conduct the assessment and provide the appropriate treatment for sex offenders. Although community safety is the central purpose of sex offender management, characteristics of sex offenders themselves dictate the form and style of treatment that will be most effective (English, 1996).

Offense Specific Sex Offender Treatment

Offense specific sex offender treatment is effective in reducing recidivism. A multifaceted treatment program includes the following;

- **Cognitive/Behavioral group and individual sessions**. Cognitive distortions are thoughts and attitudes that allow offenders to justify, rationalize, and minimize the impact of their deviant behavior. Cognitive distortions allow the adult sex offender

and juveniles with sexual behavior problems to overcome inhibitions and progress from fantasy to behavior. These distorted thoughts provide the adult sex offender and juveniles with sexual behavior problems with an excuse to engage in deviant sexual behavior, and serve to reduce guilt and responsibility.

- **Arousal control**. Control of deviant arousal, fantasies, and urges is a priority of treatment providers who treat adult sex offenders and juveniles with sexual behavior problems. Fantasy and sexual arousal to fantasy are precursors to deviant sexual behavior. It should be assumed that most adult sex offenders and juveniles with sexual behavior problems have gained sexual pleasure from their specific form of deviance. Dr. Matthew Ferrara in "Lifestyle Enhancement and Development (2000)" describes deviant sexual behavior as behavior that meets one or more of the subsequent criteria: sexual contact with a person under the legal age of consent (17 years old); sexual contact with a person who is unable to give consent; sexual contact that is forced, aggressive, causes physical harm, is coerced, uses intimidation or deceit, or is paid; or sexual contact that is harmful or degrading.
- **Victim empathy.** Although there is no clear evidence to suggest that all sex offenders can gain true empathy for victims of abuse, a universal goal of treatment is to learn to understand and value those who have been victimized. Highlighting the consequences of victimization helps sensitize the offender to the harm he or she has done. Empathy is comprised of cognitive and emotional aspects and both components may need to be addressed (ATSA 2004). The use of analogous experiences has been shown to be effective especially with juveniles. Sex offender treatment requires the offender to face the consequences of their behavior on their victims and society.
- **Biomedical interventions.** Physical or chemical castration should be utilized only as an adjunct to treatment and not in lieu of treatment. Antiandrogens such as depo-provera or Lupron act by reducing testosterone levels. These agents may be helpful in controlling arousal and libido when these factors are undermining progress in treatment or increasing the risk of re-offending before significant progress can be made in the cognitive aspects of therapy. Likely candidates for biomedical intervention are those clients who are predatory, violent, have had prior treatment failures, or who report an inability to control deviant sexual arousal. Finally, it should be remembered that deviant sexual behavior begins with deviant sexual thoughts.
- **Offense Cycle and Relapse Prevention.** Current knowledge of deviant sexual behavior suggests that there is a cycle of behaviors, emotions, and cognitions that is identifiable and which precede deviant sexual behavior in a predictable manner. The ability to accurately identify these maladaptive behaviors is a primary goal of treatment providers who treat adult sex offenders and juveniles with sexual behavior problems. Autobiographies, sexual history polygraphs, offense reports, interviews and cognitive-behavioral chains are used by treatment providers to identify antecedents to offending. It is essential to examine the sex offender's deviant sexual arousal and behavior and not just the offense of conviction. Research and clinical reports have begun to demonstrate that a number of treatment methods are effective in modifying some forms of sexual deviance. It is known that very specific thoughts occur prior to the sexually deviant act. This is what is commonly referred to as an offense cycle.

IMPULSE → FANTASY → PLAN → ACT → CONSEQUENCE

Impulses are normal and natural. Everyone has impulses and impulses are automatic. An impulse, for example, is when a person recognizes an individual in terms of their sexual attractiveness. On the other hand, a fantasy is a mental picture of what it would be like to engage in deviant sexual behavior. The set up is the plan for victimization. The consequence for deviant sexual acts should be legal sanctions but unfortunately not all deviant sexual acts are followed by consequences. Sex offenders must recognize their deviant impulses and stop those impulses from developing into deviant fantasies. It is essential to examine the sex offender's deviant thought, sexual arousal, and behavior.

- **Polygraphs.** Because secrecy and dishonesty is the major component in sexual offending, polygraphs must be utilized. Polygraphs measure the emotional arousal that is caused by fear and anxiety. The autonomic nervous system responds to arousal with physiological reactions such as increased heart rate, depth of respiration, and sweat gland activity. There are four types of polygraphs that are used on sex offenders:
  (1) Disclosure Polygraph- addresses the offense of conviction in conjunction with the official version;
  (2) Sexual History Polygraph- addresses the complete sexual history of the client up to the instant offense;
  (3) Maintenance Polygraph- addresses compliance with conditions of supervision and treatment; and
  (4) Monitoring Polygraph- addresses if the client has committed a "new" sexual offense.
- **Plethysmograph.** Is a diagnostic method used to assess sexual **arousal** by measuring the blood flow (tumescence) to the penis during the presentation of sexual stimuli (audio/visual) in a controlled laboratory setting. The plethysmograph provides the identification of clients' arousal in response to sexual stimuli and the evaluation of therapeutic efficacy. If offenders are internalizing methods taught to control their deviant arousal, there is a decrease in deviant arousal and an increase to positive appropriate arousal. The PPG cannot assess 25% of the population due to medical or gender reasons. In these cases, the Visual Reaction Time (VRT) is an alternative instrument, which may be utilized.
- **Co-morbid diagnosis.** In some adult sex offenders and juveniles with sexual behavior problems there are sufficient signs and symptoms to merit an additional diagnosis by DSM IV-TR criteria. These diagnoses can be anywhere in the entire spectrum of psychiatric disorder. The co-morbid diagnoses should be treated with the appropriate therapies concomitantly with the treatment for sex offending behavior except in the case of schizophrenia, in which anti-psychotic therapy would take precedence.
- **After-Care.** A therapeutic regimen that includes after-care treatment significantly increases the likelihood that gains made during treatment will be maintained. In order for new habits and skills to be reinforced and to monitor compliance with treatment contracts, after-care treatment should involve periodic follow-up sessions to reinforce and assess maintenance of positive gains made during treatment.

- **Adjunct treatments** Substance abuse, anger management, stress management, social skills, couples/family therapy, or self-help groups shall only be used as adjuncts to a comprehensive treatment program in reducing the client's risk to re-offend.

The Effectiveness of Sex Offender Treatment

Sexual offenses result in significant physical, psychological, and/or emotional distress to victims that can last for years. Another profound effect on a victim is the violation of trust that occurs when, as with most sexual assault, the offenders are known to their victims. Trauma and the length and level of recovery seem linked to the trust violation (English, 1996). Thus, what some might regard as a relatively minor type of sexual assault (e.g. "just fondling") can be extremely traumatic to a victim who trusted the perpetrator (English, 1996).

An offender's subsequent re-offending is a serious public concern. The prevention of sexual violence is particularly important given the irrefutable harm that these offenses cause victims and the fear they generate in the community (Bynum, 2001). In the most extreme and rare cases, sex offenders murder their victims (Terry, 2003). During the 1980s and early 1990s, the sexual homicides of Jacob Wetterling, Polly Klaas, and Megan Kanka were catalysts for the passage of sex offender legislation. As a result of these homicides, exceptional laws have been directed toward individuals who have committed such heinous offenses.

Over the past 30 years, significant research has produced relevant information regarding the assessment, treatment, and containment of sex offenders, which has resulted in enhancing public safety. There have been considerable advances in our knowledge about the characteristics of effective treatment programs (Bonta, 2001). The purpose of treatment is to modify both cognitive distortions and deviant sexual behavior to reduce the risk of re-offending. Research and clinical reports have begun to demonstrate that a number of treatment methods are effective in modifying some forms of sexual deviance. The following are studies that show the effectiveness of treatment:

- In a study of 31,216 sex offenders it was discovered that, on average, the observed sexual recidivism rate was 13%, the violent non-sexual recidivism was 14%, and the general recidivism was 36.9% (Hanson and Bourgon 2004).
- In the December 2002 publication of Psychiatry News, an article titled "Sex Offender Recidivism Rates Below Expectations: A 15 Year Prospective Study" concluded that more than eighty percent (80%) of sex offenders who have undergone treatment do not re-offend within fifteen (15) years. The study of 626 individuals was reported at the American Academy of Psychiatry and Law. The study found that sex offenders who were compliant with treatment were less likely to re-offend. Approximately forty percent (40%) of these individuals received anti-androgenic drugs in order to lessen their sex drive.
- Child molesters who participated in a cognitive behavioral treatment program had fewer sexual re-arrests than the sex offenders who did not receive any treatment (13.2% vs. 57.1%, respectively). Both groups were followed for 11 years. The recidivism data was obtained by official sources and self-reports. Treated

exhibitionists were reconvicted or charged with a sexual offense less than the untreated exhibitionists (23.6% v. 57.1%, respectively) (Lane Council, 2003).

- The overall effect of treatment shows reductions in both sexual recidivism, 10% of the treated subjects to 17% of untreated, and general recidivism, 32% for treated subjects to 51% of untreated subjects (Hanson, 2000).
- Recidivism rates for sex offenders do decrease with proper treatment. A meta-analytic study showed that treated sex offenders recidivate at a rate of 19% (Hall, 1995).

September 1, 2002-August 31, 2004 Council Activities

78th Legislative Session-Resource Witness

Senate Bill 1093/871 (Senator Shapiro)-amending Health & Safety Code, Chapter 841
Senate Bill 1054 (Senator Shapleigh)-offense specific guidelines for Community Supervision
Senate Bill 97 (Senator Barrientos)-establishing a child safety zone of 1000 feet
Senate Bill 924 (Senator Zaffarini)-regarding statutory rape
House Bill 155 (Representative Wise)-regarding employment in sexually explicit businesses

2004 Legislative Interim Studies

House Corrections Committee Interim Study on the Council on Sex Offender Treatment regarding sex offender treatment provider licensure and protected act to enhance public safety. Testified April 8, 2004 in Henderson, Texas and September 9, 2004 in Grand Prairie, Texas.
House Sex Offender Registration, Select Committee regarding revamping the statute using The dynamic risk assessment to enhance public safety. Testified May 11, 2004 in Austin, Texas

Presentations/Trainings

Civil Commitment Contractor Training on ProTech Global Positioning Satellite Systems (Feb. 1-2, 2003)
Correctional Service Corporation (Aug. 2003) Dallas
Wayback Halfway House (Aug. 2003) Ft. Worth
Travis County Sexual Assault Task Force (Sept. 2003) Austin
Harris County Sexual Assault Task Force (Sept. 2003) Houston
Harris County Reid Facility (Sept. 2003) Houston
Association for the Treatment of Sex Abusers (Oct 8-11, 2003) St. Louis, Missouri
Civil Commitment Contractor Training (October 18-19, 2003) Austin
Tarrant County Sexual Assault Task Force (Jan. 2004) Ft. Worth
TDCJ-Victims Service Advisory Council (Jan. 2004) Austin
Texas Association Against Sexual Assault-Speaking Across Borders (March 2004) El Paso
Bexar County Sheriff Department (March 2004) San Antonio
Tarrant County Sexual Assault Task Force (April 2004) Ft. Worth
17th Annual Texas Crime Victims Clearinghouse Conference (May 3-7, 2003) Dallas
Kiwanis Club (June 2004) Austin

Polygraphing Female Sex Offenders (June 2004) Austin
12th Annual Conference on Juveniles with Sexual Behavior Problems (July 2004) San Antonio
3rd Annual Child Victims: Interventions and Investigations (July 2004) Bastrop
Harris County's District Attorney's Child Abuse Taskforce (August 5, 2004) Houston
Gateway Foundation (August 25, 2004) Dallas
Crimes Against Children Conference (August 26, 2004) Dallas
University of Texas-Social Work Program (Sept. 18, 2004) Austin
TAASA-4th Annual Sex Crimes Conference (Sept. 28, 2004)
International Association for the Treatment of Sexual Offenders (Oct. 6-9, 2004) Athens, Greece
Harris County Children's Assessment Center (Oct. 12, 2004) Houston
NASW/Texas Annual Conference (Oct. 21-23, 2004) Austin, Texas

Future Presentations Scheduled

Annual Civil Commitment Contractor Training (December 4-5, 2004) Austin
Child Abuse Conference (Dec 13-15, 2004) San Antonio
Criminal Justice Judiciary Conference (May 2005) Site TBA
Annual Criminal and Civil Law Conference-Texas District and County Attorney's Association (Sept. 2005)
Austin Sex Crimes Task Force-TBA
Houston Independent School Districts-TBA
City of Houston-Office of the Mayor-Crime Victims Assistance Division-TBA

Conferences/Co-Sponsors/Exhibits

11th Annual Conference on the Management of Sex Offenders (Feb. 2003) Dallas. There were 214 attendees from various disciplines.
11th Annual Conference on Juveniles with Sexual Behavior Problems (July 2003) Austin. There were 276 attendees from various disciplines.
District Attorney's Conference (Sept. 24, 2003) Corpus Christi, Texas
Co-Sponsor-Texas Association Against Sexual Assault-3rd Annual Justice Conference (Oct 27, 2003) Austin, Texas
Co-Sponsor-2003 Child Abuse Conference- Partnering to Help Our Children (Dec. 15, 2003) San Antonio, Texas
12th Annual Conference on the Management of Adult Sex Offenders (Feb. 2004) Galveston. There were 280 attendees from various disciplines.
12th Annual Conference on Juveniles with Sexual Behavior Problems (July 2004) San Antonio. There were 276 attendees from various disciplines.
Annual Criminal and Civil Law Conference-Texas District and County Attorney's Association (Sept. 2004) South Padre, Texas

Future Conferences

13th Annual Conference on the Management of Adult Sex Offender (Feb. 2005) Austin
13th Annual Conference on Juveniles with Sexual Behavior Problems (July 2005) Austin

Interviews, Articles, and Publications

Texas District and County Attorney's Associate Sept/Oct Newsletter "The Prosecutor" on Civil Commitment (September/October 2003)
Texas District and County Attorney's Association March/April Newsletter "The Prosecutor" on Civil Commitment Recent Court Decisions (March/April 2004)
New York Times-Texas Civil Commitment Outpatient Sexually Violent Predator Treatment Program (October 2003)
Chicago Tribune-Texas Civil Commitment Outpatient Sexually Violent Predator Treatment Program (November 2003)
Texas Monthly Magazine regarding sex offenders and castration (November/January 2004)
Dallas Morning News regarding sex offender registration and child safety zones (June 2004)
Associated Press-San Francisco, CA. on Texas Outpatient Civil Commitment Program (April 2004)
University of Texas-The Daily Texan regarding sex offenders (October 2004)
Council on Sex Offender Treatment-Registry of Registered Sex Offender Treatment Providers (2003 and 2004)

Media Coverage on Civil Commitment

KEYE-Channel 42, Austin
Fox Channel 26, Houston
Capital Report with Representative Ray Allen
ABC Channel 13, Houston
KHOU Channel 11, Houston
ABC 20/20-Civil Commitment

International and Out of State Contacts to the Council

Winnipeg Manitoba Canada-Area Director of the Probation Sex Offender Unit regarding using passive GPS on sex offenders.
London, England regarding juvenile sex offenders.
California's Legislative Study Group regarding Texas civil commitment program.
California Research Bureau regarding Texas civil commitment program.
Judge Advocate General Counsel, USNR NLSO Central BROFF Fort Worth regarding sex offender registration.
Oregon Forensic State Hospital regarding global positioning satellite systems used on SVPs.
William Mitchell College of Law regarding civil commitment.
Florida regarding sexually violent predator treatment
West Virginia Victim Services Correctional Program regarding victim issues in treatment.
Alaska regarding the Council's Standards of Practice for developing their program.
Iowa regarding the requirements of the civil commitment order.
Washington State, Missouri, Virginia, and Kansas regarding SVPs with traditional mental requisites.
New Mexico regarding the development of sex offender standards of practice.
Minnesota House of Representatives regarding sex offender cross over research and re-offense rates.
Minnesota regarding establishing an intermediate civil commitment program.

Arkansas regarding the development of an outpatient civil commitment program.
North Dakota Office of the Governor regarding the development of an outpatient civil commitment program.
Louisiana regarding the development of an outpatient civil commitment program.
New York Office of the Governor regarding the development of an outpatient civil commitment program.
District of Columbia and Michigan regarding sex offender issues and registration.
University of George Washington regarding the Council's standards for development of sex offender programs.
New Jersey SVP Special Treatment Center regarding the outpatient SVP program and an interstate compact agreement for SVPs.
St. Edwards University regarding castration.
Nevada Probation regarding legislative changes to lifetime probation for sex offenders.
South Carolina Victim Assistance Network regarding civil commitment.

Information Created, Disseminated, and Placed on Website

History of CSOT Brochure
Management and Containment of Sex Offenders
Difference in Sex Offender Treatment and Traditional Psychotherapy
Statistics and Recidivism
Issues to be addressed in Sex Offender Treatment
Castration
Warning Signs for Re-offense
Use of Polygraphs in the Assessment and Treatment of Sex Offenders
Use of Plethysmographs in the Assessment and Treatment of Sex Offenders
Sex Offender Registration
U.S. History and Texas History of Civil Commitment
Court Decisions on Sexually Violent Predator Act
State-by-State Comparison on SVPA
Texas Civil Commitment Process and Flowchart
Annual Report on the Council
RSOTP Certificates and renewal cards
Briefing Document regarding the Council for Sunset Commission
Briefing Document regarding the Council for Health and Human Services Commission
Briefing Document regarding Licensure and Protected Act for House of Representatives
Briefing Document regarding Registration, Notification, In-Prison Treatment, Supervision, and Community Based Treatment for Representative Ray Allen
Recommendation from the joint taskforce regarding Chapter 62, Sex Offender Registration

Council Rules-Standards of Practice

In FY 2004, the Council completed a comprehensive review of its rules (Texas Administrative Code Title 22, Chapter 810), in accordance with the Government Code 2001.039. The adopted rules include new sections regarding the treatment of juveniles with sexual behavior problems, female sex offenders, developmentally delayed sex offenders, and offense specific treatment.

Website Updates

The Council's website was redesigned and updated on March 1, 2003 to disseminate current information on the council; management, containment and treatment of sex offenders, and the outpatient sexually violent predator treatment program.

Database

TDH Information and Analysis tracking RSOTPs by County and Ratio of RSOTPs per 100,000 population.

Civil Commitment-Outpatient Sexually Violent Predator Treatment Program (OSVPTP) Health & Safety Code, 841

The legislature finds that a small but extremely dangerous group of sexually violent predators exist and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The Council on Sex Offender Treatment is responsible for providing appropriate and necessary treatment and supervision through the case management system.

The Cost Per SVP Client:

- **Case Manager** supervision cost per client per month is $600 to $1,200.
- **Global Positioning Satellite Tracking** cost per client per month is $403 plus the monthly cost of air cards.
- **Biennial Examinations** (every two years) cost per client is $1,000 to $1,200 plus travel.
- **Routine SVP transportation by Cab Companies** cost per client per month ranges from $300 to $1,800 depending upon the city. **Transportation by residential facilities** is .40 cents per mile.
- **SVP transportation** from the Institutional Division to the SVPs residence is $40 per hour.
- **Residential Facility** cost per client per month is $1,085 to $1,240.
- **Sex Offender Treatment** per client per month is $440.
  - **Group Sessions** cost $30 per client per hour, two groups per week for ninety minutes.
  - **Individual Sessions** per client cost $60.
  - **Monthly Interagency Case Management Meeting** is $50 per hour at least one per month.
  - **Intake Evaluations** per client costs $475 (Special Needs Clients incur a higher rate).
- **Psychopharmacological agents** cost per client varies depending on the medication (Anti-psychotic is $100 per month to $.25 cents for aversion therapy).
- **Polygraphs** per client cost $175 (at least three per year).
- **Plethysmographs** per client cost $200 (two per year).
- **Prescription** for the plethysmograph per client cost $25 to $75.
- **Urinalysis testing** per client cost per test $38 to $75 for five-panel test.

****Underlined items indicate costs that may not be applicable to each SVP**

Inflation rates in transportation and housing should be accounted for annually

Council Staff Cost

- **Council travel** for the Civil Commitment Multidisciplinary Team Meetings
- **Council staff** travel for statewide training on SVPs and managing sex offenders
- **Case Manager and Treatment Provider Training** (two times per year) cost includes travel, lodging, and meals. There are 37 contractors as of September 1, 2004.

- **Miscellaneous** costs (photocopying the manuals and information, film, cell phones special needs clients, consultant fees, DPS fingerprints, etc).
- **Two and a half full time employees**
- **Independent Auditors of Civil Commitment Contractors**

FY 2004 Council Tracking of Cost of Contractor/Client Services Only

Case Managers:	$96,941
Halfway Houses:	$71,542
Pro-Tech/GPS Monitoring:	$65,677
Treatment Providers:	$63,350
Transportation:	$39,191
Contractor Training:	$19,000
Auditors:	$11,600
Biennial Reviews:	$11,000
PPGs:	$2925
Polygraphs:	$2450
Substance Use Testing:	$787
Cell Phone (Jan-Aug.):	$330
DPS Fingerprints:	$324
DPS Criminal History Checks:	$264
Contractor Business Cards:	$15
GRAND TOTAL	
FOR CONTRACTED SERVICES:	$385,396

Enhancements to the Civil Commitment Program

Revised the Civil Commitment Policies and Procedures Manual to ensure successful rehabilitation and the highest level of client accountability.

Revised the training manual to ensure successful rehabilitation and the highest level of client accountability.

Established MOA's for spot purchasing halfway house bed space in Dallas, Ft. Worth, El Paso, Houston, Austin, and Bexar County

Established contracts with local cab companies and off-duty peace officers for transportation of SVPs.

Established contract with biennial experts for examinations of SVPs.

Established interagency cooperation agreement with TDH to disencumber funds.

Established contract with ProTech monitoring for training case managers on GPS.

Established contract with independent auditors to evaluate the efficacy of the outpatient treatment program.

Established contract with PsycheMedics for substance abuse hair testing.

Created a standardized order of commitment to enhance public safety per the request of Montgomery County District Judges.

Established the Case Manager Code of Ethics.

Recommended changes to SB 1093 regarding Health & Safety Code, Section 841.082 Commitment Requirements, to assist in facilitating arrests of sexually violent predators in violation of the order of commitment.

Provided statewide training for Residential Facility staff on SVPs and the

management of sex offenders and SVPs.

Facilitated the increase in the participation of District Attorneys (DA) from across the State in the monthly civil commitment update meetings. The meetings address issues of concern such as the administration, arrest, and prosecution of SVPs.

Increased the recruitment of case managers, treatment providers, and biennial experts. The Council currently has 37 contractors for the treatment and supervision of SVPs.

Created a SVP list that combines information from DPS, TDCJ, and CSOT.

SVP Database

SVP database was updated January 1, 2004 to eliminate duplication of work, to streamline the billing process, and to institute cost tracking for contractors.

Informational database is currently being created to allow the Council to develop a statistical profile of SVPs.

Affirmed SVP Cases

Beasley v. Molett-Petition for Review under Rule 53 Dismissed of-Texas Supreme Court
In Re Commitment of Almaguer-Court of Appeals 9th District
In Re Commitment of Michaels-Court of Appeals 9th District
In Re Commitment of Petersimes- Court of Appeals 9th District
In Re Commitment of Corliss-Court of Appeals 9th District
In Re Commitment of Danner-Court of Appeals 9th District
In Re Commitment of Adams-Court of Appeals 9th District
In Re Commitment of Graham-Court of Appeals 9th District
In Re Commitment of Morales-Court of Appeals 9th District
In Re Commitment of Shaw- Court of Appeals 9th District
In Re Commitment of Martinez-Court of Appeals 9th District
In Re Commitment of Mullens-Court of Appeals 9th District
In Re Commitment of Castillo-Court of Appeals 9th District
In Re Commitment of Sanchez-Court of Appeals 9th District
In Re Commitment of Rosales-Court of Appeals 9th District
In Re Commitment of Richards-Court of Appeals 9th District
In Re Commitment of McKay-Court of Appeals 9th District
In Re Commitment of Van Zandt-Court of Appeals 9th District
In Re Commitment of Jamison-Court of Appeals 9th District

Court Decisions Reversed and Remanded

In Re Commitment of Fisher-Court of Appeals 13th District; oral argument heard November 30, 2004; Texas Supreme Court

In Re Commitment of Larkin Court of Appeals 9th District –Re-Committed July 21, 2004

Civil Commitment Activities MDT (Oct. 03 thru August 04)

October 2003. 24 cases reviewed with 6 referred for a behavioral abnormality assessment

November 2003. 53 cases reviewed with 16 referred for a behavioral abnormality assessment

December 2003. 42 cases reviewed with 7 referred for a behavioral abnormality assessment

January 2004. 45 cases reviewed with 3 referred for a behavioral abnormality assessment
February 2004. 33 cases reviewed with 5 referred for a behavioral abnormality assessment
March 2004.43 cases reviewed with 10 referred for a behavioral abnormality assessment
April 2004. 35 cases reviewed with 5 referred for a behavioral abnormality assessment
May 2004. 35 cases reviewed with 6 referred for a behavioral abnormality assessment
June 2004. 70 cases reviewed with 16 referred for a behavioral abnormality assessment
July 2004. 28 cases reviewed with 6 referred for a behavioral abnormality assessment
August 2004. 35 cases reviewed with 6 referred for a behavioral abnormality assessment

Totals for FY 2004

Cases reviewed by the MDT= 443
Cases referred by the MDT to TDCJ for a behavioral abnormality assessment= 87
Cases referred by TDCJ for a behavioral abnormality assessment= TDCJ to provide
Cases with or without a behavioral abnormality referred by TDCJ to the Special Prosecution Unit= TDCJ to provide
Petitions Filed by Special Prosecution Unit= 14
Abated by the Special Prosecution Unit= 5
Civilly Committed (One re-committed)= 10

Disposition of Cases by Fiscal Year

FY 2001
7 Civilly Committed
1 Not Committed
FY 2002
11Civilly Committed
0 Not Committed
FY 2003
13 Civilly Committed
0 Not Committed

(Notes: Petitions and abatement statistics provided by TDCJ)

Recommendations for Changes for the Occupations Code, Chapter 110

- Provide a "**line item**" appropriation for the Council and Civil Commitment to allow the Council to have complete fiscal control over budget for both the Council and Civil Commitment. With the current appropriation given to the Department of State Health Services, Health Professions (3.A. Strategy Request), the Council cannot meet its statutory mandate under Occupations Code Chapter 110, Subsection 110.154. Distribution of Money. "The Council shall distribute money appropriated to the Council by the legislature for that purpose to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of sex offender treatment programs". The Department of State Health Services determines what money is allocated to the Council and Civil Commitment from the Departments legislative appropriations.

- **Amend** Occupations Code, Chapter 110 to license sex offender treatment providers and protect the practice of sex offender treatment.

- **Amend** Occupations Code, Section 110.401. Offense: Misuse of Title and Practice by changing the penalty from a Class C to a Class B misdemeanor. This change would be congruent with the other licensing boards. See Occupations Code §505.507 (Social Work); Occupations Code §503.452 (Licensed Professional Counselors); and Occupations Code §502.454 (Licensed Marriage and Family Therapist).

    - **Issue:** Federal regulations specify the penile plethysmograph as a medical device that it is to be used only by prescription from or under direction of a physician or a *licensed practitioner*. The Texas Department of Health, Division of Food and Drugs has defined the term licensed practitioner as a physician and does not include non-physician licensed mental health practitioners. The Council believes that the requirement of a prescription encumbers access to an assessment tool that provides vital information in the evaluation, treatment and risk assessment of sexual offenders. The requirement for a medical physician to write a Rx for a PPG greatly increases the cost of this assessment. The FDA regulation does not define "licensed practitioner". Each state has the freedom to define who is qualified as a licensed practitioner. Texas is the only state that requires a medical physician to prescribe a plethysmograph. Clinical experience in the administration of the PPG indicates that there are no risks involved in the procedure that would require medical intervention.

    - **Recommendation:** Amend the Occupations Code, Chapter 110 and the Texas Health and Safety Code to include a definition of a "Licensed Practitioner" to include a Registered/Licensed Sex Offender Treatment Provider who has been certified in the use of a Penile Plethysmography.

Recommendations for the Code of Criminal Procedures

■ **Require a dynamic risk assessment (DRA) for sex offenders.** The dynamic risk assessment will enhance public safety through the proper identification of high-risk offenders and offers a greater protection to the public. The use of a combination of static and dynamic factors advances the legislative commitment to protect the citizens of Texas and accurately assesses offenders who are at high risk to recidivate when re-entering society. Additionally, the DRA provision provides an incentive for the offenders to cooperate in or with the assessment. The DRA models the "Risk/Needs Principle" in which the majority of funds and resources are allocated to the population of sex offenders that pose the greatest risk to the citizens of Texas.

■ **Amend Art. 42.09(8)(a), Code of Criminal Procedure** to add (11) a county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department: <u>(11) a copy of the following information provided by the sex offender treatment provider: the discharge summary, assessments, and polygraphs, penile plethysmographs, and/or visual reaction time test results</u>.

Council's Recommendations for Changes in Health & Safety Code, Chapter 841

■ **Amend** Health & Safety Code, Section 841.002(A) to include 43.25 (Sexual Performance by a Child)

■ **Amend** Health & Safety Code, Sec. 841.003.

(a) A person is a sexually violent predator for the purposes of this chapter if the person:

(1) is a sexually violent offender; and

(2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

(b) A person is a sexually violent offender for the purposes of this chapter if the person is convicted <u>of more than one sexually violent offense or is convicted of one sexually violent offense and capital murder, murder, or attempted murder and a sentence is imposed for at least one of the offenses</u>. (See **Arizona**-any crime if the court determines the act was sexually motivated-murder, assault, aggravated assault, kidnapping, unlawful imprisonment; **California**- acts committed by force, violence duress, menace, or fear of immediate unlawful bodily injury on the victim; **Florida**-murder/sexual gratification, **Kansas**-any act determined beyond a reasonable doubt/sexual gratification; **North Dakota**-engaging or attempting or causing or attempting to cause another to engage in a sexual act, if the victim is compelled to submit by force or by threat of imminent death, serious bodily injury, or kidnapping; **Illinois**-murder/sexually motivated; **Iowa-**murder, kidnapping, burglary, child endangerment/sexually motivated; **South Carolina**-any offense which a judge makes a specific finding on record, that the person's offense should be considered sexually violent; **Washington**-murder, assault, kidnapping,

burglary, unlawful imprisonment, which either at the time of sentencing for the offense or subsequently during the civil commitment proceedings is determined beyond a reasonable doubt to be sexually motivated).

■ **Amend** Health & Safety Code, Section 841.023, so the expert determines and makes the referral to the Special Prosecution Unit when a behavioral abnormality is assessed and not a criminal justice agency (See *In the Commitment of Fisher*). Then the department would provide corresponding documentation to the attorney representing the state not later than the 60th day after the date of a recommendation under Section 841.022(c). Under the current language, TDCJ, a criminal justice agency, has the discretion over a civil process to determine who is referred for a behavioral abnormality and who is referred to SPU.

■ **Amend** Health & Safety Code, Section 841.083(a), so as to remove the salary cap for treatment providers to allow the Council to pay a competitive rate for individual and group sessions.

■ **Amend** Health & Safety Code, Section 841.083(c)(1-3), to read "The committed person may not be housed for any period of time in a mental health facility, state school, or community center <u>except</u>:

(1) <u>when the person is determined to be incompetent to stand trial during a criminal proceeding or;</u>

(2) <u>during the course of treatment, the person is found to be incompetent and subject to an involuntary commitment through the State mental health services.</u>

In this subsection:

(1) "**Community center**" means a center established under Subchapter A, Chapter 534.

(2) "**Mental health facility**" has the meaning assigned by Section 571.003.

(3) "**State school**" has the meaning assigned by Section 531.002

(f) If at anytime during the course of the outpatient sexually violent predator treatment program, the person is found to be incompetent, the Council may request from the court of jurisdiction a suspension of the order until such time competency is regained".

This would allow the Council to temporarily suspend the SVP order until competency is restored and the person would have the mental capacity to complete the treatment program.

■ **Amend** Health & Safety Code, Section 841.083(d), to read, "<u>The Council shall contract for any necessary supervised housing/residential facilities</u>". If the Council is mandated to contract with TDCJ, then Council would be required to hold public hearings. This language allows the Council the flexibility to spot purchase bed space from any facility without the public hearings and in facilities, which already house like populations.

■ **Amend** Health & Safety Code, Section 841.121(a), 841.123 (a), 841.124 (a), to read, "If the <u>Interagency Case Management Team</u> determines that the committed person's behavioral abnormality has changed to the extent that the person is no longer

likely to engage in a predatory act of sexual violence, the Interagency Case Management Team". Case managers do not have the expertise to determine if the behavioral abnormality has changed.

- **Amend** Health & Safety Code, Section 841.123(c)(1-2)(A-B), by removing this language due to 9th Circuit Court ruling (See *Beasley v. Molett*, the *Commitment of Morales*, and the *Commitment of Mullens*). If it is a right to file the annual petition, then it should not be considered frivolous. Section 841.006 additionally addresses: "This chapter does not prohibit a person committed under this chapter from filing at any time a petition for release under this chapter.

- **Amend** Health & Safety Code, Sec. 841.147, Immunity**.** The following persons are immune from liability for good faith conduct under this chapter: (5) A person under contract with the Council on Sex Offender Treatment may be represented by the attorney assigned to the Council in any proceedings related to this Chapter. Contractors need to be represented in the event they are named in a suit. Immunity does not cover the proceeding prior to dismissal for good faith.

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